



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 29, 1993

Mr. Jeff Hankins  
Legal Assistant  
Regulated Lines Section, Legal Services, 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR93-356

Dear Mr. Hankins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19395.

The Texas Department of Insurance (the "department") has received a request for a legal opinion prepared for the insurance fraud unit concerning Wilmer Sherrill Little. You contend the information is excepted by sections 3(a)(1), 3(a)(7), and 3(a)(11) of the Open Records Act.<sup>1</sup>

Section 3(a)(1) excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." The Insurance Code, article 1.10D, section 5, provides that:

(a) Any information or material acquired by the department that is relevant to an inquiry by the insurance fraud unit is not a public record for as long as the commissioner considers reasonably necessary to complete the investigation, protect the person under investigation from unwarranted injury, or serve the public interest. . . .

You assert that the department is currently investigating New Era Life Insurance Company and that the requested information is needed by the insurance fraud unit "in order to complete the investigation and to serve the public interest." You also state that the commissioner of insurance "has not altered the status of the inquiry." We understand

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<sup>1</sup>We note that although you raise section 3(a)(3) in your original request letter, you withdrew your section 3(a)(3) assertion by a subsequent letter dated March 25, 1993.

you to contend that the commissioner considers it necessary to withhold the requested information from public disclosure in order to complete the investigation and to serve the public interest. Therefore, we conclude that the requested information is confidential under section 5 of article 1-10D of the Insurance Code. *See* Open Records Decision No. 608 (1992). Accordingly, you may withhold the requested information under section 3(a)(1) of the Open Records Act. Because we answer your question under section 3(a)(1), we will not address the applicability of sections 3(a)(7) and 3(a)(11).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/LBC/jmn

Ref.: ID# 19395  
ID# 19518

cc: Mr. David L. Winston  
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